

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.3081 of 2012

Rabinarayan Nayak

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

18.10.2022

Order No

02.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. Rabinarayan Nayak, in Person and Mr. M.K. Balabantaray, learned Standing Counsel appearing for the Opp. Parties.

3. The present writ Petition has been filed with the following prayer:-

“Under the facts and circumstances stated in Pare-6 above the applicant prays for the following reliefs -

- (i) To direct the Reap. No.1 to implement the Tribunal order dt. 23.02.2012 in O.A. No. 1528 (c)/2010 for release of regular pension, gratuity, balance unutilized leave salary, Security Deposit deducted from the salary of the applicant at the initial appointment as Forest Range Officer with accrued interest forth with;*
- (ii) To direct the Resp. No.3 to release the unpaid G.P.F. deposit of the applicant in respect of the missing credits at the rate of the previous month's subscription if the missing credit amount is not possible to be ascertained;*
- (iii) To direct the respondents to pay compound interest at the rate of 18% for all the arrear dues as per the circular in Annexure-3;*
- (iv) And to pass any other order as this Hon'ble Tribunal may deem fit and proper.”*

4. It is submitted that even though the Petitioner retired from his service w.e.f.31.08.2003 and as on the date of retirement no proceeding whatsoever was pending against him, but the retiral benefit of the Petitioner were never released in his favour. The Petitioner accordingly claiming release of the same approached the learned Tribunal in O.A. No. 1359(C) of 2004.

5. It is submitted that subsequent to filing of the said Original Application and without releasing the retiral benefits a proceeding was initiated against the Petitioner in the year 2005 and on the ground of pendency of the said proceeding the Opp. Parties did not release the retiral dues of the Petitioner.

6. It is submitted that learned Tribunal in its order dtd.09.04.2009 in O.A. No. 1359(C) of 2004 directed the Opp. Parties to complete the proceeding within a period of six (6) months. It is submitted that the said proceeding initiated against the Petitioner in the year 2005 was ultimately treated as dropped vide order passed by the learned Tribunal on 23.02.2012 under Annexure-1 in O.A. No.1528(C) of 2010.

7. It is submitted that pursuant to the order passed by the learned Tribunal under annexure-1 the Petitioner was sanctioned with the arrear pension and gratuity amounting of Rs.2,63,592/- (Rs. Two lakh sixty three thousand five hundred ninety two) and Rs.1,80,614/- (Rs. One lakh eighty thousand six hundred fourteen) respectively only on 11.02.2013.

8. Mr. Nayak, in Person submitted that since as on the date of retirement no proceeding was pending as against him, the retiral benefits should not have been kept withheld and released more than

10 years after his retirement. Mr. Nayak accordingly submitted that on the arrear pension amount as well as the gratuity amount as indicated hereinabove, he is entitled to get interest.

9. Mr. Nayak also relied on the provision contained under Rule 49 (5) of the Odisha Pension Rules, 1992, wherein it has been provided that:

“if the delay in disbursing the gratuity amount is attributable the administrative lapses interest @ 7% per annum for the period beyond retirement shall be payable on the amount of gratuity.”

10. Mr. Balabantary, learned Standing Counsel on the other hand made his submission basing on the stand taken in the counter. Though in the counter various stands have been taken, but no submission has been made with regard to pendency of any proceeding against the Petitioner as on the date of his retirement on 31.08.2003. Mr. Balabantary however submitted that basing on the order passed by the learned Tribunal on 23.02.2012 under Annexure-1, the arrear pension and gratuity amount was released in favour of the petitioner on 11.02.2013.

11. Having heard learned counsel for the Parites and after going through the materials available on record, this Court finds that as on the date of retirement of the Petitioner on 31.08.2003, there was no proceeding pending against him and the proceeding in question was initiated only in the year 2005. Therefore, this Court is of the view that since no proceeding was pending against the Petitioner as on the date of retirement, the Opp. Parties should not have withheld

the pension and gratuity amount as due and admissible to the Petitioner.

12. Therefore, this Court while deprecating such delayed payment is inclined to interfere with the same and directs Opp. Party No. 1 to pay interest @ 6% per annum on the arrear pension amount of Rs.2,63,592/- (Rs. Two lakh sixty three thousand five hundred ninety two) for the period from 01.09.2003 to 10.02.2013 and interest @ 7% per annum on the gratuity amount of Rs.1,80,614/- (Rs. One lakh eighty thousand six hundred fourteen) for the period from 01.09.2004 to 10.02.2013. The amount towards interest be calculated in favour of the Petitioner within a period of three (3) months from the date of receipt of this order.

13. The writ Petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha

